

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

ARIK MAYERNICK, individually and  
on behalf of all others similarly situated,

*Plaintiff,*

v.

ZIP CAPITAL GROUP LLC, a  
California registered company,

*Defendant.*

Case No.

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

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**CLASS ACTION COMPLAINT**

Plaintiff Arik Mayernick (“Plaintiff Mayernick” or “Mayernick”) brings this Class Action Complaint and Demand for Jury Trial against Defendant Zip Capital Group LLC (“Defendant” or “Zip Capital Group”) to stop the Defendant from violating the Telephone Consumer Protection Act (“TCPA”) by making pre-recorded telemarketing calls to consumers without consent, including calls to phone numbers that are registered on the National Do Not Call Registry (“DNC”). Plaintiff also seeks injunctive and monetary relief for all persons injured by Defendant’s conduct. Plaintiff Mayernick, for this Complaint, alleges as follows upon personal knowledge as to himself and his own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by his attorneys.

## **PARTIES**

1. Plaintiff Mayernick is a resident of Allen Park, Michigan.
2. Defendant Zip Capital Group is a California registered company headquartered in Irvine, California. Defendant Zip Capital Group conducts business throughout this District and throughout the US.

## **JURISDICTION AND VENUE**

3. This Court has federal question subject matter jurisdiction over this action under 28 U.S.C. § 1331, as the action arises under the Telephone Consumer Protection Act, 47 U.S.C. §227 (“TCPA”).
4. This Court has personal jurisdiction over the Defendant because the Defendant conducts business in this jurisdiction and solicits customers from this jurisdiction.
5. Venue is proper in this District under 28 U.S.C. § 1391(b) because the Plaintiff is located in this District and the wrongful conduct giving rise to this case was directed into this District.

## **INTRODUCTION**

6. As the Supreme Court explained at the end of its term this year, “Americans passionately disagree about many things. But they are largely united in their disdain for robocalls. The Federal Government receives a staggering number of complaints about robocalls—3.7 million complaints in 2019 alone. The States

likewise field a constant barrage of complaints. For nearly 30 years, the people’s representatives in Congress have been fighting back.” *Barr v. Am. Ass’n of Political Consultants*, No. 19-631, 2020 U.S. LEXIS 3544, at \*5 (U.S. July 6, 2020).

7. When Congress enacted the TCPA in 1991, it found that telemarketers called more than 18 million Americans every day. 105 Stat. 2394 at § 2(3).

8. By 2003, due to more powerful autodialing technology, telemarketers were calling 104 million Americans every day. In re Rules and Regulations Implementing the TCPA of 1991, 18 FCC Rcd. 14014, ¶¶ 2, 8 (2003).

9. The problems Congress identified when it enacted the TCPA have only grown exponentially in recent years.

10. According to online robocall tracking service “YouMail,” 4.5 billion robocalls were placed in July 2023 alone, at a rate of 144.8 million per day. [www.robocallindex.com](http://www.robocallindex.com) (last visited August 20, 2023).

11. The FCC also has received an increasing number of complaints about unwanted calls, with 150,000 complaints in 2016, 185,000 complaints in 2017, and 232,000 complaints in 2018. FCC, Consumer Complaint Data Center, [www.fcc.gov/consumer-help-center-data](http://www.fcc.gov/consumer-help-center-data).

12. “Robocalls and telemarketing calls are currently the number one source of consumer complaints at the FCC.” Tom Wheeler, *Cutting off Robocalls* (July 22, 2016), statement of FCC chairman.<sup>1</sup>

13. “The FTC receives more complains about unwanted calls than all other complaints combined.” Staff of the Federal Trade Commission’s Bureau of Consumer Protection, *In re Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Notice of Proposed Rulemaking, CG Docket No. 02-278, at 2 (2016).<sup>2</sup>

### COMMON ALLEGATIONS

14. Defendant Zip Capital Group provides capital and merchant cash advances to businesses throughout the US.<sup>3</sup>

15. Defendant Zip Capital Group places pre-recorded solicitation calls to consumers to solicit the sales of capital and merchant cash advances.

16. These calls are being placed to consumers that have registered their phone numbers on the DNC, as per Plaintiff’s experience.

17. To try and avoid liability for its unlawful telemarketing practices, Defendant Zip Capital Group uses the name “Capital Group” when placing calls.

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<sup>1</sup> <https://www.fcc.gov/news-events/blog/2016/07/22/cutting-robocalls>

<sup>2</sup> [https://www.ftc.gov/system/files/documents/advocacy\\_documents/comment-staff-ftc-bureau-consumer-protection-federal-communications-commission-rules-regulations/160616robocallscomment.pdf](https://www.ftc.gov/system/files/documents/advocacy_documents/comment-staff-ftc-bureau-consumer-protection-federal-communications-commission-rules-regulations/160616robocallscomment.pdf)

<sup>3</sup> <https://www.linkedin.com/company/zip-capital-group/about/>

18. Consumers have posted complaints online claiming that Capital Group is actually Zip Capital Group, including:

- “This is complete spam. They take your information spam you with 30% interest loans. When you refuse the loans they begin spamming you with calls. All these reviews are fake reviews with profiles that have only one review. *They also try to disguise themselves as Capital Group when they are ZIP Capital Group.* Major difference!!!! This is spam!!!”<sup>4</sup> (emphasis added)

19. Websites such as Robokiller.com and Youmail.com have captured pre-recorded voice messages that Defendant Zip Capital Group uses when placing calls to consumers, including messages that are identical to the pre-recorded voice messages that were transmitted to Plaintiff Mayernick, including:

### Typical Messages

hey it's tiffany with capital group um i just wanted to circle back with you to discuss funding options for your business i still have immediate funding options up to two hundred and fifty thousand dollars would limited to know documentation necessary i can be reached at 949-518-0333 so i'll be around all day i'm looking forward to speaking with you thanks ...



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<sup>4</sup> <https://www.google.com/search?q=zip+capital+group>

<sup>5</sup> <https://directory.youmail.com/phone/828-276-7973>

<sup>6</sup>

<https://media.youmail.com/mcs/glb/audio/s6diZGlyX3I5dmRpcjp0b21jYXQ5NTc5OjE2Njk4MzU0OTU3MzJpxTvKDz.gen.mp3>

**(979) 227-1887** is a Business Financial Robocall

Be cautious.

LISTEN

▶ 0:00



TRANSCRIPT

*You. Hey, it's Tiffany with capital group. Just touching base regarding your business plans this quarter. I still have immediate funding options up to \$250,000, with limited to no documentation necessary. So I can be reached at 949-464-5479 I'll give you that number again, it's 949-464-5479. I'm gonna be around all day. I'm looking forward to speaking with you. Thanks.*

DATE BLOCKED

July 10, 2023

CALL ACTIVITY

Low

Last detected 1 month ago

7 8

20. Consumers have voiced their complaints online about unsolicited calls that they received from Defendant Zip Capital Group, including complaints that Defendant received directly on Google, Yelp, and the Better Business Bureau, including:

- “These guys will NOT stop calling me. I never asked for info from this company. Asked ‘Jennifer’ if it bothered her to violate the Do Not Call list. She answered, ‘Not particularly’ and hung up. Lovely people. Must be a large operation since they use Legal Zoom as their registered agent. Lol. Company: From this point forward every time you call me I will report you to the FCC AND call your office back to waste your time. Leave me alone!!!!”<sup>9</sup>
- “They cold call you and when you ask to be taken off their contact list they hang up. Then when you talk to an underwriter and ask to be taken off the contact list they also hang up and say they will although they don't have any of your contact information, name of your company, etc. Very much likely a scam or non-reputable lender at best. SPAM SPAM SPAM”<sup>10</sup>

<sup>7</sup> <https://www.nomorobo.com/lookup/979-227-1887>

<sup>8</sup> [https://api.twilio.com/2010-04-](https://api.twilio.com/2010-04-01/Accounts/AC1a3140a8a2e2af9f8580ccfa46a022cb/Recordings/RE4c6da297dd4f839ce970bb1554e995ab.mp3)

[01/Accounts/AC1a3140a8a2e2af9f8580ccfa46a022cb/Recordings/RE4c6da297dd4f839ce970bb1554e995ab.mp3](https://api.twilio.com/2010-04-01/Accounts/AC1a3140a8a2e2af9f8580ccfa46a022cb/Recordings/RE4c6da297dd4f839ce970bb1554e995ab.mp3)

<sup>9</sup> <https://www.google.com/search?q=zip+capital+group>

<sup>10</sup> Id.

- “These people keep calling me for a loan when I have now asked 3 times to be placed on their Do Not Call List.”<sup>11</sup>
- “This company is a disgrace. Not only do they dish out predatory loans at 30% interest. They hound you to death with call. I get three text messages and three emails each day soliciting my business. I would never accept a dime from this company. I have also had past employees from this comopany reach out to me on my personal line. I am so sick of Zip capital group. LEAVE ME ALONE”<sup>12</sup>
- “I don't trust and would NEVER work with a company that uses ILLEGAL ROBO CALLING as one of it's marketing angles! Pretty sure you have already been sued, yet continue to call me weekly and many others. Last chance. One more call and I am contacting the FTC and State for assistance. UPDATE TO REPLY FROM ZIP CAPITAL: Of course you can't find my personal name in your ‘database’, you ROBO call businesses trying to solicit for your equipment financing and continue to ILLEGALLY Tele-market using AUTOMATED ROBO systems and you SPOOF from different numbers often...even the recorded message admits to this type of behavior saying call me back at....OR just go ahead and call back the number on your caller id, which is different and changes. Like I mentioned, you have been sued already for this and yet you choose to continue unethical/illegal business practices like this, but hey you already know this!! I have called your office and spoke with someone about having our number removed. We will see if it happens! A quick Google search will show many complaints about this. And since you are calling my business, I am a prospect on your list, so the review will stand.”<sup>13</sup>
- “Very annoying people, won't stop calling and texting me, even though I asked them to take me off their list and just forget my phone number”<sup>14</sup>
- “The use of recorded telemarketing is illegal and Zip Capital was sued in a class-action suit on March 3, 2019 for violating the Telephone Consumer Protection Act.  
courtlistener.com/recap/... 1159047.1.0.pdf”<sup>15</sup>

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<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> <https://www.yelp.com/biz/zip-capital-group-irvine>

- “I received a voicemail from Heather of Zip Capital group on Voic mail received Aug 18, 2022, claiming they have \$250K LOC available at single digit rates...”<sup>16</sup>

21. In response to these calls, Plaintiff Mayernick brings forward this case seeking injunctive relief requiring the Defendant to cease from violating the TCPA, as well as an award of statutory damages to the members of the Classes and costs.

### **PLAINTIFF MAYERNICK’S ALLEGATIONS**

22. Plaintiff Mayernick registered his residential cell phone number on the DNC on December 1, 2019.

23. Plaintiff Mayernick uses his residential cell phone number for personal use only. It is not associated with a business.

24. The calls that Plaintiff received from Defendant Zip Capital Group were all received more than 31 days after Plaintiff registered his number on the DNC.

25. Plaintiff Mayernick has received multiple unsolicited pre-recorded voicemail calls from Defendant Zip Capital Group to his cell phone number.

26. On December 8, 2022 at 2:46 PM, Plaintiff Mayernick received an unsolicited call to his cell phone from Defendant Zip Capital Group, from phone number 906-208-2271.

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<sup>16</sup> <https://www.bbb.org/us/ca/irvine/profile/small-business-loans/zip-capital-group-llc-1126-172014235/complaints>



27. This call was not answered but a pre-recorded voicemail was left stating:

(906) 208-2271

2:46 PM, 12/8/22

Hey, it's Tiffany with capital Group. Um, I just wanted to circle back with you to discuss funding options for your business. I still have immediate funding options up to \$250,000 with limited to no documentation necessary. I can be reached at 9495180333. So I'll be around all day. I'm looking forward to speaking with you. Thanks.

17

28. On December 14, 2022 at 12:31 PM, Plaintiff Mayernick received a 2<sup>nd</sup> unsolicited call to his cell phone from Defendant Zip Capital Group, from phone number 906-292-7112.

29. This call was not answered but a pre-recorded voicemail was left stating:

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17

<https://www.dropbox.com/scl/fi/wl52mevbg6pzx8rmgwg9u/19062082271.1670525171.37.amr?rlkey=o99j3qr9czv1buhzm814885kc&dl=0>

(906) 292-7112

12:31 PM, 12/14/22

Hey, it's Tiffany with capital Group. Um, I just wanted to circle back with you to discuss funding options for your business. I still have immediate funding options up to \$250,000 with limited to no documentation necessary. I can be reached at 9495180333. So I'll be around all day. I'm looking forward to speaking with you. Thanks.

18

30. On April 26, 2023 at 11:17 AM, Plaintiff Mayernick received a 3<sup>rd</sup> unsolicited call to his cell phone from Defendant Zip Capital Group, from phone number 616-465-7048.

31. This call was not answered but a pre-recorded voicemail was left stating:

(616) 465-7048

11:17 AM, 4/26/23

Hey, it's Tiffany with Capital Group. Um I just wanted to circle back with you to discuss funding options for your business. I still have immediate funding options up to \$250,000 with limited to no documentation necessary. I can be reached at 9495180333. So I'll be around all day. I'm looking forward to speaking with you. Thanks.

19

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<https://www.dropbox.com/scl/fi/lxplzuwj8xjimmqds9g/19062927112.1671035519.38.amr?rlkey=g4bui2lm9vqvtrtg2bn4w3i3&dl=0>

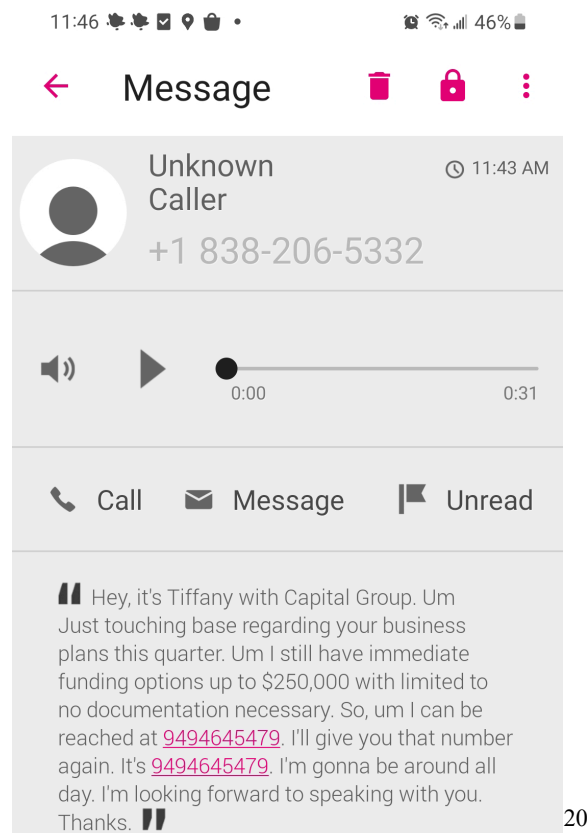
19

<https://www.dropbox.com/scl/fi/ps1tsstic2rvcjexo1tc9/16164657048.1682522267.54.amr?rlkey=1zj9bnnl3j8pooalk2djx0nfx&dl=0>

32. All 3 of the aforementioned voicemails are identical to each other, proving that they are pre-recorded. They have the same exact voice, intonation, pauses, and words.

33. On July 19, 2023 at 11:43 AM, Plaintiff Mayernick received a 4<sup>th</sup> unsolicited call to his cell phone from Defendant Zip Capital Group, from phone number 838-206-5332.

34. This call was not answered but a pre-recorded voicemail was left stating:



20

<https://www.dropbox.com/scl/fi/0h60g3x6eix49nyqidij0/18382065332.1689781397.59.amr?rlkey=4krfvbhw3jwi3ap5u5f89zn5p&dl=0>

35. On August 3, 2023 at 2:49 PM, Plaintiff Mayernick received a 5<sup>th</sup> unsolicited call to his cell phone from Defendant Zip Capital Group, from phone number 828-276-7973.

36. This call was not answered but a pre-recorded voicemail was left stating:

(828) 276-7973

2:49 PM, Today

Hey, it's Tiffany with Capital Group. Um  
Just touching base regarding your business  
plans this quarter. Um I still have immediate  
funding options up to \$250,000 with limited  
to no documentation necessary. So, um I can  
be reached at 9494645479. I'll give you that  
number again. It's 9494645479. I'm gonna  
be around all day. I'm looking forward to  
speaking with you. Thanks.

21

37. The 2 aforementioned voicemails that Plaintiff received are identical to each other proving that they are pre-recorded. They have the same voice, intonation, pauses, and words.

38. All of the voicemails that Plaintiff received are from “Tiffany,” and other than a change in the phone number Plaintiff is asked to call, the voicemails are identical to each other.

39. These same voicemails are identical to voicemails that other consumers posted online, as was stated above:

### Typical Messages

hey it's tiffany with capital group um i just wanted to circle back with you to discuss funding options for your business i still have immediate funding options up to two hundred and fifty thousand dollars would limited to know documentation necessary i can be reached at 949-518-0333 so i'll be around all day i'm looking forward to speaking with you thanks ...

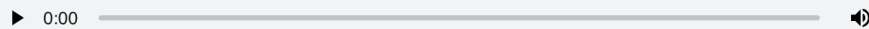


22 23

### (979) 227-1887 is a Business Financial Robocall

Be cautious.

LISTEN



TRANSCRIPT

*You. Hey, it's Tiffany with capital group. Just touching base regarding your business plans this quarter. I still have immediate funding options up to \$250,000, with limited to no documentation necessary. So I can be reached at 949-464-5479 I'll give you that number again, it's 949-464-5479. I'm gonna be around all day. I'm looking forward to speaking with you. Thanks.*

DATE BLOCKED

July 10, 2023

CALL ACTIVITY

Low

Last detected 1 month ago

24 25

40. When 949-464-5479 is called, it connects directly to a Zip Capital Funding employee.

41. Plaintiff Mayernick has never done business with Zip Capital Group.

<sup>22</sup> <https://directory.youmail.com/phone/828-276-7973>

<sup>23</sup>

<https://media.youmail.com/mcs/glb/audio/s6diZGlyX3I5dmRpcjp0b21jYXQ5NTc5OjE2Njk4MzU0OTU3MzJpxTvKDz.gen.mp3>

<sup>24</sup> <https://www.nomorobo.com/lookup/979-227-1887>

<sup>25</sup> [https://api.twilio.com/2010-04-](https://api.twilio.com/2010-04-01/Accounts/AC1a3140a8a2e2af9f8580ccfa46a022cb/Recordings/RE4c6da297dd4f839ce970bb1554e995ab.mp3)

[01/Accounts/AC1a3140a8a2e2af9f8580ccfa46a022cb/Recordings/RE4c6da297dd4f839ce970bb1554e995ab.mp3](https://api.twilio.com/2010-04-01/Accounts/AC1a3140a8a2e2af9f8580ccfa46a022cb/Recordings/RE4c6da297dd4f839ce970bb1554e995ab.mp3)

42. Plaintiff Mayernick does not own/operate a business and has never solicited a business loan.

43. The unauthorized solicitation telephone calls that Plaintiff received from or on behalf of Defendant have harmed Plaintiff Mayernick in the form of annoyance, nuisance, and invasion of privacy, occupied his phone line, and disturbed the use and enjoyment of his phone.

44. Seeking redress for these injuries, Plaintiff Mayernick, on behalf of himself and Classes of similarly situated individuals, brings suit under the TCPA.

### **CLASS ALLEGATIONS**

45. Plaintiff Mayernick brings this action pursuant to Federal Rules of Civil Procedure 23(b)(2) and 23(b)(3) and seeks certification of the following Classes:

**Pre-recorded No Consent Class:** All persons in the United States who from four years prior to the filing of this action through class certification (1) Defendant Zip Capital Group called on their cellular telephone number (2) using an artificial or pre-recorded voice.

**Do Not Call Registry Class:** All persons in the United States who from four years prior to the filing of this action through class certification (1) Defendants called more than one time, (2) within any 12-month period, (3) where the person's residential telephone number had been listed on the National Do Not Call Registry for at least thirty days, (4) soliciting business capital funding.

46. The following individuals are excluded from the Classes: (1) any Judge or Magistrate presiding over this action and members of their families; (2) Defendant, its subsidiaries, parents, successors, predecessors, and any entity in which either Defendant or their parents have a controlling interest and their current or former employees, officers and directors; (3) Plaintiff's attorneys; (4) persons who properly execute and file a timely request for exclusion from the Classes; (5) the legal representatives, successors or assigns of any such excluded persons; and (6) persons whose claims against the Defendant have been fully and finally adjudicated and/or released. Plaintiff Mayernick anticipates the need to amend the Class definition following appropriate discovery.

47. **Numerosity and Typicality:** On information and belief, there are hundreds, if not thousands of members of the Classes such that joinder of all members is impracticable, and Plaintiff is a member of the Classes.

48. **Commonality and Predominance:** There are many questions of law and fact common to the claims of the Plaintiff and the Classes, and those questions predominate over any questions that may affect individual members of the Classes. Common questions for the Classes include, but are not necessarily limited to the following:

- (a) whether Defendant Zip Capital Group or its agents placed pre-recorded voice message calls to Plaintiff Mayernick and members of the Pre-

recorded No Consent Class without first obtaining consent to make the calls;

- (b) whether Defendant placed multiple calls to Plaintiff and members of the Do Not Call Registry class without first obtaining consent to make the calls;
- (c) whether the calls constitute a violation of the TCPA;
- (d) whether Class members are entitled to an injunction against Defendant preventing it from making unsolicited prerecorded calls; and
- (e) whether members of the Class are entitled to treble damages based on the willfulness of Defendant's conduct.

49. **Adequate Representation:** Plaintiff Mayernick will fairly and adequately represent and protect the interests of the Classes, and has retained counsel competent and experienced in class actions. Plaintiff Mayernick has no interests antagonistic to those of the Classes, and the Defendant has no defenses unique to Plaintiff. Plaintiff Mayernick and his counsel are committed to vigorously prosecuting this action on behalf of the members of the Classes, and have the financial resources to do so. Neither Plaintiff Mayernick nor his counsel have any interest adverse to the Classes.

50. **Appropriateness:** This class action is also appropriate for certification because the Defendant has acted or refused to act on grounds generally applicable



to the Classes and as a whole, thereby requiring the Court's imposition of uniform relief to ensure compatible standards of conduct toward the members of the Classes and making final class-wide injunctive relief appropriate. Defendant's business practices apply to and affect the members of the Classes uniformly, and Plaintiff's challenge of those practices hinges on Defendant's conduct with respect to the Classes as wholes, not on facts or law applicable only to Plaintiff Mayernick. Additionally, the damages suffered by individual members of the Classes will likely be small relative to the burden and expense of individual prosecution of the complex litigation necessitated by Defendant's actions. Thus, it would be virtually impossible for the members of the Classes to obtain effective relief from Defendant's misconduct on an individual basis. A class action provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court.

**FIRST CLAIM FOR RELIEF**

**Telephone Consumer Protection Act**

**(Violation of 47 U.S.C. § 227)**

**(On Behalf of Plaintiff Mayernick and the Pre-recorded No Consent Class)**

51. Plaintiff repeats and realleges the prior paragraphs of this Complaint and incorporates them by reference herein.

52. Defendant Zip Capital Group and/or its agents transmitted unwanted telephone calls to Plaintiff Mayernick and the other members of the Pre-recorded No Consent Class using a pre-recorded voice message.

53. These pre-recorded voice calls were made *en masse* without the prior express written consent of the Plaintiff Mayernick and the other members of the Pre-recorded No Consent Class.

54. The Defendant has, therefore, violated 47 U.S.C. § 227(b)(1)(A)(iii). As a result of Defendant's conduct, Plaintiff Mayernick and the other members of the Pre-recorded No Consent Class are each entitled to a minimum of \$500 in damages, and up to \$1,500 in damages, for each violation.

**SECOND CAUSE OF ACTION**  
**Telephone Consumer Protection Act**  
**(Violations of 47 U.S.C. § 227)**  
**(On Behalf of Plaintiff Mayernick and the Do Not Call Registry Class)**

55. Plaintiff repeats and realleges paragraphs 1 through 50 of this Complaint and incorporates them by reference herein.

56. The TCPA's implementing regulation, 47 C.F.R. § 64.1200(c), provides that "[n]o person or entity shall initiate any telephone solicitation" to "[a] residential telephone subscriber who has registered her or her telephone number on the national do-not-call registry of persons who do not wish to receive telephone solicitations that is maintained by the federal government."

57. Any "person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may" may bring a private action based on a violation of said regulations, which were promulgated to protect telephone

subscribers' privacy rights to avoid receiving telephone solicitations to which they object. 47 U.S.C. § 227(c).

58. Defendant violated 47 C.F.R. § 64.1200(c) by initiating, or causing to be initiated, telephone solicitations to telephone subscribers such as Plaintiff Mayernick and the Do Not Call Registry Class members who registered their respective telephone numbers on the National Do Not Call Registry, a listing of persons who do not wish to receive telephone solicitations that is maintained by the federal government.

59. Defendant violated 47 U.S.C. § 227(c)(5) because Plaintiff Mayernick and the Do Not Call Registry Class received more than one telephone call in a 12-month period made Defendant in violation of 47 C.F.R. § 64.1200, as described above.

60. As a result of Defendant's conduct as alleged herein, Plaintiff Mayernick and the Do Not Call Registry Class suffered actual damages and, under section 47 U.S.C. § 227(c), are entitled, inter alia, to receive up to \$500 in damages for such violations of 47 C.F.R. § 64.1200.

61. To the extent Defendant's misconduct is determined to be willful and knowing, the Court should, pursuant to 47 U.S.C. § 227(c)(5), treble the amount of statutory damages recoverable by the members of the Do Not Call Registry Class.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, individually and on behalf of the Classes, prays for the following relief:

- a) An order certifying this case as a class action on behalf of the Classes as defined above; appointing Plaintiff as the representative of the Classes; and appointing his attorneys as Class Counsel;
- b) An award of money damages and costs;
- c) An order declaring that Defendant's actions, as set out above, violate the TCPA;
- d) An injunction requiring Defendant to cease all unsolicited calling activity, and to otherwise protect the interests of the Class; and
- e) Such further and other relief as the Court deems just and proper.

**JURY DEMAND**

Plaintiff Mayernick requests a jury trial.

**ARIK MAYERNICK**, individually and on behalf of all others similarly situated,

DATED this 11th day of September, 2023.

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Classes*

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